

IN THE CIRCUIT COURT OF HAMILTON COUNTY, TENNESSEE

THE NEUROSURGICAL GROUP OF
CHATTANOOGA, P.C.

Plaintiff,

vs.

TRAVELERS CASUALTY AND
SURETY COMPANY OF AMERICA,

Defendant.

NO. 13C1352

DIV. _____

JURY DEMAND

FILED IN OFFICE
2013 OCT 11 PM 2:47
BY CM T. THOMPSON, CLERK
DC

COMPLAINT

Plaintiff, The Neurosurgical Group of Chattanooga, P.C., for its cause of action against Defendant, Travelers Casualty and Surety Company of America, states as follows:

1. Plaintiff is a Tennessee professional corporation.
2. Defendant, Travelers Casualty and Surety Company of America ("Travelers"), is a Connecticut corporation. Travelers may be served through the Commissioner of Insurance at One Tower Square, Hartford, CT 06183.
3. On February 1, 2011, in consideration of the premiums provided for therein, Travelers issued to Plaintiff certain insurance coverages in Policy No. 105560675, including, but not limited to, employee theft coverage.
4. The policy provided that Travelers "will pay the Insured for direct loss that the Insured sustains which is directly caused by a Single Loss taking place at any time and which is Discovered by the Insured during the Policy Period or the Extended

Period to Discover Loss.”

5. With respect to employee theft, the policy provides that Travelers “will pay the Insured for the Insured’s direct loss of, or direct loss from damage to, Money, Securities and Other Property directly caused by Theft or Forgery committed by an Employee, whether identified or not, acting alone or in collusion with other persons.”

6. In October of 2011, Plaintiff discovered that its practice manager for over 22 years, H. Lee Wood, had failed to remit payroll taxes to the Internal Revenue Service, which resulted in the imposition of substantial penalties.

7. Following Mr. Wood’s termination in November of 2011, Plaintiff discovered that Mr. Wood had engaged in other activities that caused loss to the Plaintiff, including making pay advances to himself that he never repaid, giving himself unauthorized bonuses, obtaining unauthorized loans on life insurance policies, and failing to remit trust funds to the Plaintiff’s 401k retirement plan.

8. In 2012, Plaintiff made a claim on the Travelers insurance coverage related to the activities of Mr. Wood.

9. Travelers has breached the terms of the policy by failing to pay Plaintiff benefits due under the employee theft coverage.

10. Plaintiff has continued to fulfill its obligations under the policy.

11. Plaintiff has suffered damages as a result of Defendant’s wrongful refusal to pay amounts due under the policy.

WHEREFORE, Plaintiff prays as follows:

(a) That process issue and be served upon Defendant requiring it to appear and answer within the time provided by law;

(b) That Plaintiff be awarded judgment against Travelers in the amount that Travelers owes under the policy, with the amount to be determined at trial.

(c) That Plaintiff be awarded prejudgment interest and costs, including discretionary costs; and

(d) That Plaintiff be awarded such other and further relief to which it may be entitled.

PLAINTIFF DEMANDS A JURY TRIAL TO TRY ALL ISSUES IN THIS CAUSE.

Respectfully submitted,

HORTON, BALLARD & PEMERTON, PLLC

By:



William H. Horton, BPR No. 1935

Carol M. Ballard, BPR No. 018533

Attorneys for Plaintiff

735 Broad Street, Suite 306

Chattanooga, TN 37402

(423) 826-2640